

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	EB Docket No. 03-152
	)	
<b>WILLIAM L. ZAWILA</b>	)	Facility ID No. 72672
	)	
Permittee of FM Station KNKS,	)	
Coalinga, California	)	
	)	
<b>AVENAL EDUCATIONAL SERVICES,</b>	)	Facility ID No. 3365
<b>INC.</b>	)	
	)	
Permittee of FM Station KAAX,	)	
Avenal, California	)	
	)	
<b>CENTRAL VALLEY EDUCATIONAL</b>	)	Facility ID No. 9993
<b>SERVICES, INC.</b>	)	
	)	
Permittee of FM Station KYAF,	)	
Firebaugh, California	)	
	)	
<b>H. L. CHARLES D/B/A FORD CITY</b>	)	Facility ID No. 22030
<b>BROADCASTING</b>	)	
	)	
Permittee of FM Station KZPE,	)	
Ford City, California	)	
	)	
<b>LINDA WARE D/B/A LINDSAY</b>	)	Facility ID No. 37725
<b>BROADCASTING</b>	)	
	)	
Licensee of FM Station KZPO,	)	
Lindsay, California	)	

To: Marlene H. Dortch, Secretary  
Attn: Chief Administrative Law Judge Richard L. Sippel

**ENFORCEMENT BUREAU'S MOTION CONCERNING REQUESTS FOR ADMISSION  
SERVED ON THE ESTATE OF H.L. CHARLES D/B/A FORD CITY BROADCASTING**

1. On January 12, 2016, the Presiding Judge issued a *Memorandum Opinion and Order* stating his intention of adding several issues to the above-captioned matter and ordered that, beginning January 19, 2016, the Enforcement Bureau (Bureau) was authorized to serve additional discovery requests, including requests for admission, requests for documents, and interrogatories.<sup>1</sup> In compliance with that *Order*, on February 2, 2016, the Bureau served requests for admission on The Estate of H.L. Charles d/b/a Ford City Broadcasting (FCB). Pursuant to the Commission's rules, FCB was obligated to provide its answers and/or objections to these requests for admission by February 18, 2016.<sup>2</sup> The Bureau did not receive any responses from FCB to its requests for admission. For the reasons set forth below, the Chief, Enforcement Bureau, through his attorneys, respectfully submits that the requests for admission served on FCB are deemed admitted.

2. Pursuant to Section 1.246 of the Commission's rules, "[e]ach of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than 10 days after service thereof, ...the party to whom the request is directed serves upon the party requesting an admission either: (1) A sworn statement denying specifically the matters of which an admission is requested..., or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is improper in whole or in part."<sup>3</sup>

---

<sup>1</sup> See *Memorandum Opinion and Order*, FCC 16M-01 (ALJ, rel. Jan. 12, 2016), at 5.

<sup>2</sup> See 47 C.F.R. §§ 1.246(b).

<sup>3</sup> *Id.*

3. Although Mr. Zawila filed a request on behalf of FCB to join the pending motion for protection filed by Mr. Couzens, this Joinder was not filed until February 20, 2016 – two days *after* FCB’s responses to the Bureau’s requests for admission were due.<sup>4</sup> It is well-settled in federal discovery practice that “[m]otions for a protective order must be made *before or on the date the discovery is due*”<sup>5</sup> and that failure to do so constitutes grounds for denial.<sup>6</sup> Here, FCB has failed to offer any good cause for its untimely filing. In fact, Mr. Couzens filed his motion for protection nearly two weeks earlier – on February 8, 2016.<sup>7</sup> Thus, Mr. Zawila had more than sufficient time to join Mr. Couzens’ motion on behalf of FCB before the February 18, 2016 deadline to respond to the Bureau’s requests for admission. Instead, Mr. Zawila waited until after the deadline – and until after the Presiding Judge instructed him to use the time before the March 22, 2016 status conference to comply with the Bureau’s outstanding discovery requests – to file the Joinder on FCB’s behalf.<sup>8</sup> As a result, the Joinder should be denied.

4. Since FCB did not provide any response to the Bureau’s requests for admission – whether it be a denial or an objection – and its Joinder to the motion for protection was untimely and should be denied, the Bureau’s requests for admission to FCB, by operation of the Commission’s rules, are deemed admitted in their entirety.

---

<sup>4</sup> See Joinder in Motion for Protective Order (47 C.F.R. § 1.313), filed Feb. 20, 2016 (Joinder).

<sup>5</sup> *Ayers v. Continental Casualty Co.*, 240 F.R.D. 216, 221 (N.D. W. Va. 2007) (citing *United States v. IBM Corp.*, 70 F.R.D. 700, 701 (S.D.N.Y. 1976)) (emphasis added).

<sup>6</sup> See, e.g., *Brittain v. Stroh Brewery Co.*, 136 F.R.D. 408, 413 (M.D.N.C. 1991) (“The failure to timely move for a protective order constitutes grounds for denying the same.”) (citations omitted).

<sup>7</sup> See Motion for Protective Order (47 C.F.R. Sec. 1.313), filed Feb. 8, 2016.

<sup>8</sup> See Order, FCC 16M-03 (ALJ, rel. Feb. 18, 2016), at 2.

Respectfully submitted,

Travis LeBlanc  
Chief, Enforcement Bureau

A handwritten signature in dark ink, appearing to read "Pamela S. Kane", is written over a horizontal line.

Pamela S. Kane  
Special Counsel  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 12th Street, SW, Room 4-C330  
Washington, D.C. 20554  
(202) 418-1420

Michael Engel  
Special Counsel  
Market Disputes Resolution Division  
Enforcement Bureau  
Federal Communications Commission  
445 12th Street, SW, Room 4-C366  
Washington, D.C. 20554  
(202) 418-7330

February 25, 2016

## CERTIFICATE OF SERVICE


Alicia McCannon, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 25th day of February, 2016, sent copies of the foregoing the foregoing "ENFORCEMENT BUREAU'S MOTION CONCERNING REQUESTS FOR ADMISSION SERVED ON THE ESTATE OF H.L. CHARLES D/B/A FORD CITY BROADCASTING" to:

The Honorable Richard L. Sippel  
Chief Administrative Law Judge  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554 (by hand, courtesy copy)

Rachel Funk  
Office of the Chief Administrative Law Judge  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554 (by hand, courtesy copy)

William Zawila, Esq.  
12600 Brookhurst Street, Suite 105  
Garden Grove, CA 92804-4833  
(714) 636-5040 (telephone)  
& (714) 636-5042 (facsimile)  
(by facsimile and first-class mail)

Michael Couzens  
Michael Couzens Law Office  
6536 Telegraph Avenue  
Suite B201  
Oakland, CA 94609  
(by first-class mail and email to [cuz@well.com](mailto:cuz@well.com))

  
Alicia McCannon